

MONTANA LEGISLATIVE HISTORY

Chapter 341 19 91

Bill H 263 S \_\_\_\_\_ Original bill & history C

H. Committee on Highways & Transportation

Hearing Date(s) Jan 29 ☒ C

Feb 12 ☒ C

\_\_\_\_\_ ☐ C

\_\_\_\_\_ ☐ C

Date Out Feb 13 ☒ C

S. Committee on Highways & Transportation

Hearing Date(s) Mar 14 ☒ C

Mar 19 ☒ C

\_\_\_\_\_ ☐ C

\_\_\_\_\_ ☐ C

Mar 19 ☒ C

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Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee \_\_\_\_\_

Report \_\_\_\_\_

## HOUSE FINAL STATUS

HB 266

RETURNED TO HOUSE  
 3/20 SIGNED BY SPEAKER  
 3/20 SIGNED BY PRESIDENT  
 3/20 TRANSMITTED TO GOVERNOR  
 3/25 SIGNED BY GOVERNOR  
 CHAPTER NUMBER 161

EFFECTIVE DATE: 3/25/91

## HB 263 INTRODUCED BY DRISCOLL, ET AL.

CLARIFY PSC'S AUTHORITY TO REGULATE  
 TRANSPORTATION OF RECYCLABLES  
 BY REQUEST OF ENVIRONMENTAL QUALITY COUNCIL

1/18 INTRODUCED  
 1/18 REFERRED TO HIGHWAYS & TRANSPORTATION  
 1/19 FIRST READING  
 1/19 FISCAL NOTE REQUESTED  
 1/23 FISCAL NOTE RECEIVED  
 1/23 FISCAL NOTE PRINTED  
 1/29 HEARING  
 2/13 COMMITTEE REPORT—BILL PASSED AS AMENDED  
 2/15 2ND READING PASSED  
 2/18 3RD READING PASSED

94 0  
 100 0

TRANSMITTED TO SENATE  
 2/19 FIRST READING  
 2/19 REFERRED TO HIGHWAYS & TRANSPORTATION  
 3/14 HEARING  
 3/20 COMMITTEE REPORT—BILL CONCURRED  
 3/23 2ND READING CONCURRED  
 3/25 3RD READING CONCURRED

48 0  
 45 3

RETURNED TO HOUSE  
 4/01 SIGNED BY SPEAKER  
 4/01 SIGNED BY PRESIDENT  
 4/01 TRANSMITTED TO GOVERNOR  
 4/04 SIGNED BY GOVERNOR  
 CHAPTER NUMBER 341

EFFECTIVE DATE: 10/01/91

## HB 264 INTRODUCED BY LEE, ET AL.

LINE ITEM FUNDING FOR STATE SCIENTIFIC  
 AND RECREATIONAL PARK

1/18 INTRODUCED  
 1/18 REFERRED TO APPROPRIATIONS  
 1/19 FIRST READING  
 3/05 HEARING  
 3/22 TABLED IN COMMITTEE

## HB 265 INTRODUCED BY CONNELLY, ET AL.

LIMIT TAX DEDUCTION OF CORPORATION FOR  
 INTEREST IT PAYS ON ITS BONDS

1/18 INTRODUCED  
 1/18 REFERRED TO TAXATION  
 1/19 FIRST READING  
 1/21 FISCAL NOTE REQUESTED  
 1/23 FISCAL NOTE RECEIVED  
 1/23 FISCAL NOTE PRINTED  
 1/30 HEARING  
 2/14 TABLED IN COMMITTEE

## HB 266 INTRODUCED BY M. HANSON, ET AL.

AMENDS THE DEFINITION OF "PROSPECTING" IN  
 THE STRIP MINE RECLAMATION ACT  
 BY REQUEST OF DEPARTMENT OF STATE LANDS

vehicles e.g. Winnebagos, entering Montana. Ms. Guedes said Montana does have a number of slow moving vehicles, but the department did not have a percentage of the total number of non-resident traffic.

Closing by Sponsor:

REP. O'KEEFE said the Highway Department has presented a number of problems with the bill. He said the only places that need to be posted are the areas where people stop and read the signs. Turnouts are not where he wants the signs posted. The one main issue that needs to be stressed is to let the slow moving traffic know that it is common courtesy to let the other vehicles get by them. He thanked the committee for a good hearing and urged the committee for a do pass for HB 222.

HEARING ON HB 263

Presentation and Opening Statement by Sponsor:

REP. JERRY DRISCOLL, House District 92, Billings, said this bill is at the request of the Environmental Quality Council (EQC). During the interim, the EQC had numerous meetings on solid waste, known as garbage, and what should be done with recyclable materials. Presently, there is not a clear authority of who can pick up and haul recyclable material. This bill will create a Class E motor carrier authority for the transportation of recyclables. It will allow these motor carriers to charge to pick up the material. Usually, there is not enough money made by taking the material to a recyclable center. This bill will allow a carrier to charge so much per month, or whatever the situation calls for so the material can be properly disposed of. He said there are a number of people that are concerned about the environment that will pay \$3 to \$5 a month to have someone come by and take their newspapers, cans, glass, plastics, etc., anything that can be diverted from the landfills and manufactured into something of value. The intent of this bill is to make it as easy as possible for someone to get into the business of picking up recyclable material and taking it to the recycling center. He envisioned kids with pickups trying to make a few dollars and help the environment at the same time. It shouldn't take a hundred hearings and thousands of dollars in attorney's fees to get a Class E license. The landfill space in Montana is filling up. The new federal regulations for landfills are very stringent and will require many dollars to comply. If 3,000 tons of recyclable material can be kept out of the landfills, the life of the landfill will be longer and it will be cheaper to the taxpayer. Most of the landfills with the exception of a very few, are owned by local communities, counties or cities.

Proponents' Testimony:

Sue Weingartner, Montana Solid Waste Contractors, said the Class D motor carriers is a private industry of waste haulers and they

support HB 263. She said the Public Service Commission (PSC) will be offering amendments to this bill. The Class D carriers support these amendments that will make the bill clearer and will carry out the intent of the EQC. EXHIBIT 1

Wayne Budt, PSC, distributed amendments for HB 263. EXHIBIT 2 He said the basic assumption of this bill when it was drafted, is a Class D carrier would have the authority to haul recyclables. It is the commission's opinion, that it is not correct. Once the material is to be recycled it has value and is no longer garbage. Mr. Budt said the amendments will remove the provisions to strike the Class D carriers priority to give Class E carriers the authority. He said there has not been a declaratory ruling by the commission on whether recyclables are Class D. There has only been research and informal staff opinions that state garbage is not included in recyclables. Mr. Budt said they were not changing the intent of the bill. All PSC wants to do is delete the Class D authority from the bill, because it does not fit in there.

Ben Havdahl, Montana Motor Carrier's Association, said he would approve the bill if the PSC amendments are included. There is a problem with Class E carriers transporting recyclables from a storage area to the manufacturing center. When the material leaves the recycling center and is transported to the manufacturing plant, it becomes a general commodity. He said there are several carriers in the association that have license for general commodity authority and some of those have special recyclable authority. The way the bill is drafted, the only person that can make application for a Class E license are Class D carriers. He supports the bill if the amendments are adopted.

Jim Lighter, Browning-Ferris Industries of Montana (BFI), Missoula, said that BFI operates in Great Falls, Miles City, and a landfill operation in Missoula. They also operate the first county wide recycling program and a modified curb-side program in Missoula County. They don't do it for hire, it is a voluntary program at no charge to the people. Recycling is an intricate part of integrated waste management solutions for solid waste in the future. He said they are proponents of the bill as amended by the PSC. It provides a cause of incentive for recycling in the Montana. They are interested in seeing recycling done as a controlled, regulated and institutionalized fashion, so it is successful. He urged the support of the committee for HB 263.

Ray Quigley, Montana Recycling, said they oppose the bill the way it is currently written, but would support it with the amendments. He said the bill discriminates the recycling industry in its current language. Garbage and recyclables do not have much to do with one another once the material is set out on the curb or brought to the recycling center. He proposed amendments for the bill. EXHIBIT 3

Brian McNit, Montana Environmental Information Center (MEIC),

said they support the bill with the amendments from the PSC. They support any move that would help move Montana from its current dependance on dumps to the dispose of its waste. Recycling is a good way to offer alternatives to landfilling. The goal of the EQC bill is to encourage more recycling. Recyclables are a valuable commodity and will be more valuable as time goes on and landfill space becomes a premium. The amendments will allow a fair competition system to take effect for various cities and towns that want to get into recycling. Without the amendments it would not be allowed. It would further extend the monopolies of waste hauling for recyclables. He is concerned with the amendments as they are; on page 4, line 25. Strike half of the sentence where it says "Class E motor carriers embraces all motor carriers operating motor vehicles with pickup services for recyclables for" from there on strike from the amendment and add in "compensation".

Shannon McNew, self, Missoula, said she had problems with the bill as drafted, but with the amendments from the PSC they can support it. The amendments will do away with the Class D preference and make it easier for people to make application for Class E license.

Neva Hassanein, NPRC, said she is proponent with the PSC amendments. The way the bill is drafted makes it a right-to-monopoly bill. She didn't think all of the regulations in the amendments from the PSC are necessary. They supported SB 27 that was introduced by SEN. SVRCK. It exempts those that carry recyclables from the requirement of motor carriers in an attempt to encourage recycling.

#### Opponents' Testimony:

REP. BEN COHEN, House District 3, Whitefish, said he first appeared before Legislature in 1981 as a new member for the Solid Waste Contractor's Association. He attended a hearing with the intention to deregulate solid waste haulers in the state. When REP. DRISCOLL made the statement about envisioning high school kids with a pickup going around collecting recyclables he backed off, because it is pertaining to high grading, which is when people separate their refuse into the various materials. The aluminum cans are what makes or breaks the recycling centers, and that is why they opposed the bottle bills. If the aluminum is taken out of the main stream, they will not make any money. He said this bill is trying to reinvent something that doesn't need to be reinvented. Oregon recycles more material than any state in the nation and they also have a bottle bill. They merely require that everyone provide a residential municipal service and they will provide a minimum of once a month pick up of recyclable materials. He encouraged the committee to not pass this bill.

#### Questions From Committee Members:

REP. GALVIN asked Mr. Budt what kinds of permits do REP. COHEN,

Mr. Lighter and Mr. Quigley have that they are able to pick up recyclables. Mr. Budt said at this time they do not have the authority to do it. He said the intent of the amendments was to clarify the bill, not change it. The Class E carrier would be regulated like the rest of the class motor carriers.

REP. TOOLE asked what kind of preferential treatment for Class E carriers is built into the bill as amended by the PSC. Mr. Budt said there are carriers that were issued authority back in the 1940s and 1950s by the commission that said, "property within 10 miles". Before Class B came into effect, the word "property" meant anything but people. When Class D became effective, it was anything but people and garbage. It is the PSC's opinion that anyone holding property authority can haul recyclables now. He said if the committee wants to give Class D the authority to haul recyclables he would not have a problem with it.

REP. FELAND asked how many permits would be allowed in a certain area. Mr. Budt said the permits will be based on public need.

REP. LARSON asked if organic material could be classified as recyclables, and if aluminum falls under that classification. Mr. Budt said yes. Organic material would cover everything. REP. LARSON asked if a garbage carrier that picked up garbage on Monday, Wednesday and Friday, than picked up recyclables on Tuesday, would he be operating outside of his Class D carrier permit. Mr. Budt said it depended on whether he was charging to pick up the recyclables. REP. LARSON asked what if the hauler didn't charge and just collected for the value of the material. Mr. Budt said the hauler would not fall under "for hire". He said that was off the top of his head and not to hold him accountable for that statement.

REP. TOOLE asked if it was correct to assume that no one in the state of Montana has the authority to haul recyclables. Mr. Budt said yes. A garbage hauler from Great Falls asked if garbage authority covered recyclables. He was told no, so he applied for authority to haul recyclables in Montana and was granted a Class C permit for that purpose. Mr. Budt said Class B is the only class that has a specific commodity in it. Class B authority is a common carrier authority that operates with tariffs, i.e., lumber, wood chips, etc. Class C is contract authority only, it includes a broad range but is done on contracts. REP. TOOLE said if BFI in Missoula starts hauling recyclables, will they have to apply for a Class C or Class E authority if this bill goes through. Mr. Budt said they would.

REP. BERGSAGEL asked if a high school kid wanted to pick up recyclables, would they have to apply for a Class E permit. Mr. Budt said they would if it was for hire.

Closing by Sponsor:

Paul Sihler, Resource Scientist, EQC, said the context of the

Class E authority bill is the council's desire to increase the recycling part of the solid waste municipal strategy for the state. There are different ways to do that. Some people want it deregulated, others want it regulated along the lines of the amendments that the PSC proposed, and others would like to have it regulated for some sort of preference. The PSC amendments open up the fields of recyclables that people can pick up beyond what the bill was originally drafted.

#### HEARING ON HB 249

##### Presentation and Opening Statement by Sponsor:

REP. HAL HARPER, House District 44, Helena, said this bill updates the amount of the maximum to be charged for tow away vehicles from \$400 to \$1,000 before an officer has to file a written report. He said in this state the taxpayers are subsidizing through the operation of the costs of the highway patrol from insurance companies that are filing reports in other states. This is why the bill raises the amount to \$1,000 before an officer has to file a report.

##### Proponents' Testimony:

Don Fenton, self, said he is an engineer that is interested in highway safety. This bill will reduce paper work for the law enforcement and backlog of data entry. He urged the committee's support of HB 249. EXHIBIT 4

##### Opponents' Testimony:

Ron Ashabraner, State Farm Insurance Companies, said that State Farm Insurance companies insure 30% of the insured automobiles in the state. His concern with the bill is in several areas: 1) most of the accidents that cost the consumer the most money is when there is little physical damage to the car which is usually under \$500. Eliminating the investigating report that is being done at the present time will open up a whole new area. At least 12% to 15% of the claims they handle are fictitious. He said most of the young people involved in accidents do not know how to obtain the proper information to locate the person they were involved in the accident with. He recommended the bill do not pass. The only thing that will be saved is the paper work.

##### Questions From Committee Members:

REP. TOOLE asked if anyone from the law enforcement showed any interest in this bill. REP. HARPER said no. He said after listening to Mr. Ashabraner, maybe the amount should be lowered. REP. TOOLE said he called the highway patrol and had informed him they were for the bill, but would not testify on it. He said the highway patrol thought someone from the Attorney General's office would be here to testify on their behalf.

# HOUSE OF REPRESENTATIVES

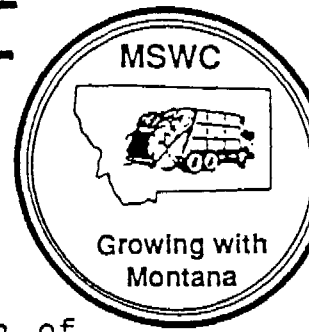
## HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL

DATE 1-29-91

| NAME                               | PRESENT | ABSENT | EXCUSED |
|------------------------------------|---------|--------|---------|
| REP. FLOYD "BOB" GERVAIS, V.-CHAIR | ✓       |        |         |
| REP. ERNEST BERGSAGEL              | ✓       |        |         |
| REP. ROBERT CLARK                  | ✓       |        |         |
| REP. JANE DEBRUYCKER               |         |        | ✓       |
| REP. ALVIN ELLIS, JR.              | ✓       |        |         |
| REP. GARY FELAND                   | ✓       |        |         |
| REP. MIKE FOSTER                   | ✓       |        |         |
| REP. PATRICK GALVIN                | ✓       |        |         |
| REP. DICK KNOX                     |         |        | ✓       |
| REP. DON LARSON                    | ✓       |        |         |
| REP. SCOTT MCCULLOCH               | ✓       |        |         |
| REP. JIM MADISON                   | ✓       |        |         |
| REP. LINDA NELSON                  |         |        | ✓       |
| REP. DON STEPPLER                  | ✓       |        |         |
| REP. HOWARD TOOLE                  | ✓       |        |         |
| REP. ROLPH TUNBY                   |         |        | ✓       |
| REP. BARRY "SPOOK" STANG, CHAIRMAN | ✓       |        |         |
|                                    |         |        |         |
|                                    |         |        |         |
|                                    |         |        |         |

EXHIBIT 1  
DATE 1-29-91  
HB 263



## HOUSE BILL 263

### Class E Motor Carrier Authority for the Transportation of Recyclables

For the record, my name is Sue Weingartner. I represent the Montana Solid Waste Contractors, a state-wide association of Class D motor carriers who are private industry waste haulers.

We support HB 263 and the amendments offered by the Public Service Commission. We discussed the amendments at length with the PSC and are in agreement that with these amendments make the bill clearer and carry out the intent of the EQC when it included this bill in its legislative package which concluded a 2-year study of Montana's solid waste by the Solid Waste Advisory Committee and the Environmental Quality Council.

Recycling involves 3 basic steps:

1. Separating reusable products from other trash: (a) sometimes done curbside; (b) sometimes done by removing it from the trash--at a central facility; or (c) consumers separate their newspapers, bottles, cans or other materials and deliver them to designated drop-off centers;
2. Processing them so that they can be substituted for virgin raw materials at manufacturing plants; and
3. Returning them to commerce, usually as part of other products. Common examples include newsprint, which can be reprocessed to make new newsprint or tissue, and cardboard, which can be reused in packaging.

Our industry is involved in the first recycling step--the commercial transportation of materials either collected with garbage and later separated or curbside collection services. Confusion has existed with respect to what type of permitting is needed for this commercial collection and transportation of recyclables. Haulers in the industry were not able to determine if Class B, C or D was the appropriate authority if they were going to recycle -- largely because confusion stemmed from no clear direction or definition as to what is garbage is what is a recyclable.

36 South Last Chance Gulch  
Suite A  
Helena, MT 59601  
Phone 406-443-1160

MONTANA SOLID WASTE CONTRACTORS, INC.

EXHIBIT 1  
DATE 1-29-91  
HB 263

HOUSE BILL 263  
TESTIMONY OF SUE WEINGARTNER  
PAGE 2

The bill before you defines "recyclable" as any material diverted from the solid waste stream that can be used as raw materials for new products and for which markets exist" and we believe it clears up this confusion as to "what is garbage" and "what is a recyclable."

The bill also makes it clear that Class E authority will be required to transport recyclables after they have been separated from the garbage and there is a market for them.

This bill is also important companion legislation to Rep. Gilbert's HB 160 that passed the House this afternoon that establishes solid waste reduction targets, establishes integrated waste management priorities, addresses recycling and authorizes the preparation of a new state solid waste management plan. HB 160, also requested by the EQC, prioritizes elements of integrated solid waste management planning. Recycling of waste is third in the list of 5 priorities.

(Note: These priorities are as follows:

1. Reduction of waste generated at the source;
2. Reuse of waste;
3. Recycling of waste;
4. Composting of biodegradable waste; and
5. Landfill disposal or incineration.)

Recycling is a hot issue--not only in Montana but across the nation. Our industry is committed to making recycling work in our state. We believe that HB 263 is an important step in successfully planning and managing recycling and we urge your support.

Public Service Commission's Proposal  
for Amendment to HB 263,  
January 29, 1991

Amendment to HB 263, as introduced (white copy).

1. Title, lines 7 and 8.  
Following: "RECYCLABLES;"  
Strike: "TO PROVIDE CLASS D MOTOR CARRIER PRIORITY FOR  
CLASS E MOTOR CARRIER AUTHORITY;"
2. Title, line 9.  
Following: "69-12-205, "  
Strike: "AND"
3. Title, line 9.  
Following: "69-12-301,"  
Insert: "69-12-321, 69-12-322, 69-12-323, 69-12-407, AND  
69-12-611,"
4. Page 4, line 25, page 5, lines 1 and 2.  
Following: "for"  
Strike: "which there is a charge, except those motor carri-  
ers already in possession of a class D carrier certifi-  
cate."  
Insert: "hire."
5. Page 5, lines 12 through 15.  
Strike: "(2) A class E motor carrier certificate may be  
issued to an applicant for new authority only if the exist-  
ing class D motor carrier or municipality in the service  
area declines to provide pickup service for recyclables."
6. Page 5.  
Following: line 15  
Insert: "Section 5. Section 69-12-321, MCA, is amended to  
read:  
69-12-321. Hearing on application for motor carrier  
certificate. (1) Upon the filing of such application by a  
Class A, Class B, Class C, ~~ex~~ Class D, or Class E motor  
carrier, except a Class C motor carrier authorized to oper-  
ate under the terms of a contract as provided in 69-12-324,  
or upon the filing of a request for a transfer of authori-  
ty, the commission shall give notice thereof to any inter-  
ested party. The commission shall fix a time and place for  
hearing thereon whenever a protest or a request for a hear-  
ing is received. The hearing is to be set for a date not  
later than 60 days after receipt of a protest or a hearing  
request by the commission. Whenever no protests or hearing  
requests are received, the commission may act on the appli-

cation without a hearing as prescribed by commission rules.

(2) Any motor carrier referred to in 69-12-322, the department of highways, the governing board or boards of any such county, town, or city into or through which the route or service as proposed may extend, and any person or corporation concerned are hereby declared to be interested parties to the proceedings and may offer testimony for or against the granting of the certificate.

(3) The contracting parties referred to in 69-12-313(4) must appear and offer testimony in support of the applicant.

(4) However, an application by a Class A, Class B, Class C, or Class D, or Class E motor carrier for a certificate may be disallowed without a public hearing thereon when it appears from the records of the commission that the route or territory sought to be served by the applicant has previously been made the basis of a public investigation and finding by the commission that public convenience and necessity do not require the proposed motor carrier service unless it is made to affirmatively appear in the application by a recital of the facts that conditions obtaining over the route or in the territory and affecting transportation facilities therein have materially changed since said public investigation and finding and that public convenience and necessity do now require the motor carrier operation.

Section 6. Section 69-12-322, MCA, is amended to read:

69-12-322. Notice of hearing. (1) Whenever a hearing is scheduled, whether as a result of a protest or request or upon the commission's own motion, the commission shall cause a copy of the petition and notice of hearing thereon to be served upon an officer or owner of any motor carrier that in the opinion of the commission might be affected by the granting of any such certificate and shall notify any other affected party at least 10 days before the date of hearing.

(2) Notice of such hearing shall be published:

(a) in the legal advertising section of a local newspaper or newspapers deemed by the commission to have a circulation sufficient to reach the consuming public in the area under consideration for applications for Class C or Class E authority and geographically limited Class B authority; and

(b) in appropriate newspapers deemed by the commission to have sufficient statewide circulation in the case of applications for Class A authority and geographically broad contemplated Class B authority.

Section 7. Section 69-12-323, MCA, is amended to read:

69-12-323. Decision on application. (1) The commission must issue, within 180 days from and after the date of the completed filing of said application, its finding, order,

or decision on said application and the evidence presented in support thereof at the time of said hearing. The commission may extend the foregoing time for decision to a date requested by the applicant.

(2) (a) If after hearing upon application for a certificate, the commission finds from the evidence that public convenience and necessity require the authorization of the service proposed or any part thereof, as the commission shall determine, a certificate therefor shall be issued. In determining whether a certificate should be issued, the commission shall give reasonable consideration to the transportation service being furnished or that will be furnished by any railroad or other existing transportation agency and shall give due consideration to the likelihood of the proposed service being permanent and continuous throughout 12 months of the year and the effect which the proposed transportation service may have upon other forms of transportation service which are essential and indispensable to the communities to be affected by such proposed transportation service or that might be affected thereby.

(b) For purposes of Class D and Class E certificates, a determination of public convenience and necessity may include a consideration of competition.

(3) The commission may issue the certificate as prayed for or issue it for the partial exercise only of the privilege sought and may attach to the exercise of the rights granted by such certificate such terms and conditions as in its judgment the public convenience and necessity may require. When a certificate has once been issued to a motor carrier as provided in this part, such certificate shall continue in force until terminated by the commission for cause as herein provided or until terminated by the owner's failure to comply with 69-12-402.

Section 8. Section 69-12-407, MCA, is amended to read:

69-12-407. Records and reports. (1) All records, books, accounts, and files of every Class A, Class B, Class C, ~~and~~ Class D, and Class E motor carrier in this state, so far as the same shall relate to the business of transportation conducted by such motor carrier, shall at all times be subject to examination by the commission or by any authorized agent or employee of the commission. The commission shall prescribe a uniform system of accounts and uniform reports covering the operations of such Class A, Class B, Class C, ~~and~~ Class D, and Class E motor carriers, and every motor carrier authorized to operate as such in accordance with the provisions of this chapter shall keep its records, books, and accounts according to such uniform system, insofar as possible.

(2) Before April 1 of each year, unless this deadline has been extended for good cause by the commission, every motor carrier authorized to engage in such business shall file with the commission a report, under oath, on a form

prescribed and furnished by the commission. Those carriers filing an annual report with the interstate commerce commission shall, in addition to filing the report prescribed by the public service commission, submit to the public service commission a copy of the annual report filed with the interstate commerce commission. In addition to such annual reports every motor carrier shall prepare and file with the commission, at the time or times and in the form to be prescribed by the commission, annual reports, special reports, and statements giving to the commission such information as it shall require in order to perform its duties under this chapter.

(3) In addition to other reporting requirements, the commission shall require the holder of a Class D motor carrier certificate to provide sufficient information to show that the carrier is entitled to possess the Class D motor carrier certificate under the requirements of 69-12-314.

Section 9. Section 69-12-611, MCA, is amended to read:

69-12-611. Leasing of power equipment. (1) All Class A, B, C, ~~and D~~, and E carriers subject to the jurisdiction of the commission may lease power equipment for the purpose of performing transportation movements within the state. The leasing of such power units must be in writing.

(2) All leases must contain:

(a) the full names and addresses of negotiating parties;

(b) a complete description of each vehicle involved;

(c) provision that the sole possession, responsibility, control, and direction of each vehicle resides with the lessee for the entire term of the lease;

(d) provision that the lessee assumes full responsibility for all regulatory fees;

(e) amount of compensation to be paid for use of the vehicle while under the lease and the method by which such compensation is determined;

(f) the renewal conditions of the lease, if any; and

(g) the term length of the lease.

(3) A copy of the lease must be maintained in each leased vehicle at all times. Each power unit so leased must display in a conspicuous place on both sides of such vehicle the identity and address of the lessor and lessee and the certificate number under which the power unit is operating.

(4) The leasing of power units by an authorized carrier to a noncertificated carrier is prohibited."

7. Page 5, line 16.  
Following: "Section"  
Strike: "5."  
Insert: "10."

EXHIBIT 3  
DATE 1-29-91  
HB 263

1-29-91 TUE 14:47

P. 02

PROPOSED AMENDMENTS TO HOUSE BILL 263

PAGE 1. LINE 7  
FOLLOWING: "TO PROVIDE"  
STRIKE: "CLASS D MOTOR CARRIER"  
AMEND TO READ: "THE RECYCLING PROCESSING FACILITY"

OR

PAGE 1. LINE 7  
FOLLOWING: "TO PROVIDE"  
AMEND TO READ: "CLASS D MOTOR CARRIER AND THE RECYCLING  
PROCESSING FACILITY"

ADD DEFINITION:

RECYCLING PROCESSING FACILITY - ANY COMMERCIAL FACILITY WHICH, AS  
ITS PRIMARY BUSINESS, SORTS OR PACKAGES A RECYCLABLE COMMODITY  
AND PREPARES THE MATERIAL SO THAT IT IS ACCEPTABLE TO THE  
MARKET PLACE.

Committee Members  
Highways and Transportation

In Section 4 (2) the giving of preference to a Class D license holder or a municipality for a Class E license draws a relationship between garbage and a recyclable commodity that does not exist, once the recyclable is separated from the solid waste stream.

Once separated, recyclables have no more relationship to solid waste than do new products destined to become solid waste (i.e. shoes, toothbrushes, or food).

If a relationship is said to exist between separated recyclables and solid waste, then follows the argument that Class D holders and municipalities should also have a preference for the transporting of new products (i.e. shoes, toothbrushes, or food).

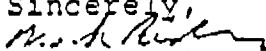
The granting of a preference to haul new products would be ridiculous, but then so is the granting of preference for hauling recyclables.

The act of picking up garbage at a residence should not be related to the pick-up of recyclables. Milk, advertising brochures, the newspaper, mail, parcel services, and diaper services are all examples of items picked up and/or delivered to households. Class D haulers and municipalities have no interest or preferences in these areas. They should have none in recyclable collection, either.

Again, once the recyclable is separated from the solid waste stream, it is an independent commodity. It does not have a relationship to garbage.

While I understand the need for a Class E license, (quality of service, proper order and insurance reasons), I do not think there is any justification for giving a preference for obtaining one to municipalities and current Class D license holders.

It has not been the municipalities or private haulers who have brought the recycling of aluminum cans, glass, various grades of paper and plastic to the people of Montana. It has been the many scrap companies, private and non-profit, large and small, old and new, who have worked hard to buy equipment, find markets, and educate Montanans about recycling. To arbitrarily eliminate recyclers from participating in a recycling program cannot be defended.

Sincerely,  
  
Mark Richlen  
President  
Associated Recyclers of Montana

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

Shirley COMMITTEE Rep. Driscoll BILL NO. HB 263  
DATE 1-29-91 SPONSOR(S)

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

| NAME AND ADDRESS        | REPRESENTING               | SUPPORT             | OPPOSE   |
|-------------------------|----------------------------|---------------------|----------|
| <i>Joe Kengau</i>       | <i>MT Solid Waste Cent</i> | <i>X</i>            |          |
| <i>Jan Data</i>         | <i>BFI Mission</i>         | <i>X</i>            |          |
| <i>MAX Bauer</i>        | <i>B.F.F. Mission</i>      | <i>X</i>            |          |
| <i>Brain McNeil</i>     | <i>MEIC</i>                | <i>X</i>            |          |
| <i>Ray Quigley</i>      | <i>Madara Recycling</i>    |                     | <i>X</i> |
| <i>Ben Clavdine</i>     | <i>MT Motor Ctr.</i>       | <i>X as amended</i> |          |
| <i>Nawa Hassanien</i>   | <i>NPRC</i>                | <i>X as amended</i> |          |
| <i>Shannon McNamara</i> | <i>myself</i>              | <i>X as amended</i> |          |
|                         |                            |                     |          |
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|                         |                            |                     |          |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Motion/Vote: Question was called. Voice vote was taken to adopt amendments. Motion CARRIED unanimously.

Motion/Vote: REP. STEPPLER MADE A SUBSTITUTE MOTION THAT HB 47 DO PASS AS AMENDED.

Vote: HB 47 DO PASS AS AMENDED. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HB 29

Motion: REP. STEPPLER MOVED HB 29 DO PASS.

Motion/Vote: REP. STEPPLER moved to adopt amendments.

Discussion:

REP. STEPPLER said this bill deals with darkening of side or rear windows. Again Nebraska's law was used saying 35 percent or more light transmittance on the side windows and 20 percent or more light transmittance on the rear windows. The vehicles are grandfathered in as in HB 47, and the same penalty and waiver clauses. EXHIBIT 29

Motion/Vote: Question was called. Voice vote was taken to adopt amendments. Motion CARRIED unanimously.

Motion/Vote: REP. STEPPLER MADE A SUBSTITUTE MOTION THAT HB 29 AS AMENDED DO PASS.

Vote: HB 29 DO PASS AS AMENDED. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HB 263

Motion: REP. LARSON MOVED HB 263 DO PASS.

Motion/Vote: REP. LARSON moved to adopt amendments.

Discussion:

REP. LARSON addressed the amendments. The original bill was to create a new class of Class C carrier. Discussion with subcommittee members, REP. FELAND and REP. MCCULLOCH, and Mr. Budt, and carrier lobbyist Sue Langartner, developed an entirely new bill. Those are the amendments. It permits Class C carriers to haul recyclables and grants that authority to Class D carriers. The amendments have the approval of PSC. Class D carriers garbage hauling authority is protected. EXHIBIT 30

CHAIRMAN STANG asked for further explanation of the process of the Class D carrier would be.

REP. LARSON said page 1 of the amendments describes that Class C carriers may carry recyclables. Page 2 spells out how they may move recyclables. Section 3 divides the classification of motor

carriers into four classes, and specifies Class D motor carriers. A statement of intent is included in the amendment. The intent of the bill is to permit the garbage hauler to pick up recyclables at the garbage cans.

Mr. Budt said the bill does not open up recyclable transportation to just anyone who wants to do it. Authority from PSC will still be required.

REP. MCCULLOCH said the requirement is for those doing it for a fee. If Boy Scouts or church groups want to haul recyclables, the bill allows that.

REP. TOOLE said he believed the sponsor wanted an opportunity for young people to do it for hire and create a new class for that purpose.

REP. LARSON said the concern of the carriers is that recyclables are being taken out of the garbage, and unless need is shown that the garbage hauler is not fulfilling the recyclable needs, the garbage hauler should be protected. That was a valid concern in the opinion of the subcommittee. The sponsor did review the bill as amended.

CHAIRMAN STANG asked Mr. Budt if young people wanted to pick up recyclables in a city, and the trash hauler was not sorting recyclables from the garbage, would those people be able to apply for a permit and more than likely be able to get one? Mr. Budt assumed that if present hauler is not providing the service, he will not protest the application. To clarify a point, a Class C carrier could go door to door to pick up recyclables.

Vote: Question was called. Voice vote was taken to adopt amendments. Motion to CARRIED unanimously.

Motion: REP. LARSON MADE A SUBSTITUTION MOTION THAT HB 263 DO PASS AS AMENDED.

Vote: HB 263 DO PASS AS AMENDED. Motion CARRIED 14 to 3 with REP. BERGSAGEL, REP. ELLIS and CHAIRMAN STANG voting no.

Bob Champion, Highway Department, presented written testimony for HB 307. EXHIBIT 31

REP. WANZENRIED presented information for HB 192. EXHIBIT 32

DON JUDGE, AFL-CIO, presented testimony for HJR 12. EXHIBIT 33

## HOUSE OF REPRESENTATIVES

## HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL

DATE 2-12-91

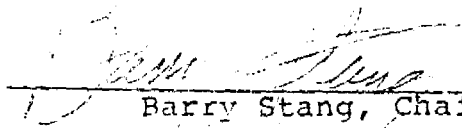
| NAME                               | PRESENT | ABSENT | EXCUSED |
|------------------------------------|---------|--------|---------|
| REP. FLOYD "BOB" GERVAIS, V.-CHAIR | ✓       |        |         |
| REP. ERNEST BERGSAGEL              | ✓       |        |         |
| REP. ROBERT CLARK                  | ✓       |        |         |
| REP. JANE DEBRUYCKER               | ✓       |        |         |
| REP. ALVIN ELLIS, JR.              | ✓       |        |         |
| REP. GARY FELAND                   | ✓       |        |         |
| REP. MIKE FOSTER                   | ✓       |        |         |
| REP. PATRICK GALVIN                | ✓       |        |         |
| REP. DICK KNOX                     | ✓       |        |         |
| REP. DON LARSON                    | ✓       |        |         |
| REP. SCOTT MCCULLOCH               | ✓       |        |         |
| REP. JIM MADISON                   | ✓       |        |         |
| REP. LINDA NELSON                  | ✓       |        |         |
| REP. DON STEPPLER                  | ✓       |        |         |
| REP. HOWARD TOOLE                  | ✓       |        |         |
| REP. ROLPH TUNBY                   | ✓       |        |         |
| REP. BARRY "SPOOK" STANG, CHAIRMAN | ✓       |        |         |
|                                    |         |        |         |
|                                    |         |        |         |
|                                    |         |        |         |

HOUSE STANDING COMMITTEE REPORT

February 13, 1991

Page 1 of 3

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 263 (first reading copy -- white) do pass as amended.

Signed:   
Barry Stang, Chairman

And, that such amendments read:

1. Title, line 5 through line 8.

Strike: "ESTABLISH" on line 5 through "AUTHORITY" on line 8.

Insert: "CLARIFY THE PUBLIC SERVICE COMMISSION'S AUTHORITY TO  
REGULATE THE TRANSPORTATION OF RECYCLABLES"

2. Title, line 9.

Strike: "69-12-205, AND"

Following: "69-12-301,"

Insert: "69-12-302, AND 69-12-406,"

3. Page 1, line 10.

Insert: "STATEMENT OF INTENT"

A statement of intent is required for this bill in order to provide guidance to the public service commission in adopting rules. It is the intention of the legislature that a Class D motor carrier have the authority to collect and transport source-separated recyclables and that Class C motor carriers have the authority to transport recyclables."

4. Page 3, line 3 through page 5, line 19.

Strike: Sections 2, 3, 4, and 5 in their entirety.

Insert: " Section 2. Section 69-12-302, MCA, is amended to read:

"69-12-302. Conditions resulting in Class C carrier considered as Class B carrier. (1) A Class C motor carrier operating with more than six contracts which are in effect at any given time and each of which are effective for a minimum of 180 days is considered to be operating as a Class B motor carrier.

Before transportation service may commence, pertinent contract information shall be furnished to the commission for each contract on forms prescribed by the commission. The commission shall retain a duplicate of the information in its files, and a copy of the form, confirmed by the commission, must be kept in the cab of the motor carrier when operating under that contract.

(2) All Class C motor carriers must annually submit to the commission the names and addresses of all persons, corporations, or other legal entities with whom the Class C carrier has executed a contract, charter, agreement, or undertaking for the distribution, delivery, or collection of wares, merchandise, or commodities or for transporting persons.

(3) The provisions of this section shall not apply to solid waste contractors, transportation of recyclables, household goods carriers, or house movers, as defined by the department of public service regulation, or any carrier whose authority is limited to the pickup and delivery of property and is confined by certificate to transportation within a distance of 50 miles or less from a particular location. Any carrier whose property authority is incidental to the transportation of persons is not included in the exemption under this subsection."

Section 3. Section 69-12-301, MCA, is amended to read:

"69-12-301. Classification of motor carriers. (1) Motor carriers are hereby divided into four classes to be known as:

- (a) Class A motor carriers;
- (b) Class B motor carriers;
- (c) Class C motor carriers;
- (d) Class D motor carriers.

(2) Class A motor carriers shall embrace all motor carriers operating between fixed termini or over a regular route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

(3) Class B motor carriers shall embrace all motor carriers operating under regular rates or charges based upon either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a regular route.

(4) Class C motor carriers shall embrace all motor carriers operating motor vehicles for distributing, delivering, or collecting wares, merchandise, or commodities or transporting persons, where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement, or undertaking.

(5) Class D motor carriers embraces all motor carriers operating motor vehicles transporting (including pickup and disposal) ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter, and recyclables."

9.4  
2-12-91  
T.D.P.  
February 13, 1991  
Page 3 of 3

Section 4. Section 69-12-406, MCA, is amended to read:  
"69-12-406. Restriction on transportation of certain waste.  
Except as provided in 69-12-324, no Class A, B, or C carrier will  
be authorized or permitted to transport ashes, trash, waste,  
refuse, rubbish, garbage, or organic and inorganic matter within  
the state. This restriction does not apply to recyclables."

Amendments to House Bill No. 263  
First Reading Copy

Requested by Rep. Larson  
For the Committee on Highways and Transportation

Prepared by Paul Sihler  
February 11, 1991

1. Title, line 5 through line 8.  
Strike: "ESTABLISH" on line 5 through "AUTHORITY" on line 8.  
Insert: "CLARIFY THE PUBLIC SERVICE COMMISSION'S AUTHORITY TO  
REGULATE THE TRANSPORTATION OF RECYCLABLES"

2. Title, line 9.  
Strike: "69-12-205, AND"  
Following: "69-12-301,"  
Insert: "69-12-302, AND 69-12-406,"

3. Page 1, line 10.  
Insert: "STATEMENT OF INTENT"

A statement of intent is required for this bill in order to provide guidance to the public service commission in adopting rules. It is the intention of the legislature that a Class D motor carrier have the authority to collect and transport source-separated recyclables and that Class C motor carriers have the authority to transport recyclables."

4. Page 3, line 3 through page 5, line 19.  
Strike: Sections 2, 3, 4, and 5 in their entirety.  
Insert: "Section 2. Section 69-12-302, MCA, is amended to read:  
"69-12-302. Conditions resulting in Class C carrier considered as Class B carrier. (1) A Class C motor carrier operating with more than six contracts which are in effect at any given time and each of which are effective for a minimum of 180 days is considered to be operating as a Class B motor carrier. Before transportation service may commence, pertinent contract information shall be furnished to the commission for each contract on forms prescribed by the commission. The commission shall retain a duplicate of the information in its files, and a copy of the form, confirmed by the commission, must be kept in the cab of the motor carrier when operating under that contract.  
(2) All Class C motor carriers must annually submit to the commission the names and addresses of all persons, corporations, or other legal entities with whom the Class C carrier has executed a contract, charter, agreement, or undertaking for the distribution, delivery, or collection of wares, merchandise, or

commodities or for transporting persons.

(3) The provisions of this section shall not apply to solid waste contractors, transportation of recyclables, household goods carriers, or house movers, as defined by the department of public service regulation, or any carrier whose authority is limited to the pickup and delivery of property and is confined by certificate to transportation within a distance of 50 miles or less from a particular location. Any carrier whose property authority is incidental to the transportation of persons is not included in the exemption under this subsection."

**Section 3.** Section 69-12-301, MCA, is amended to read:

**"69-12-301. Classification of motor carriers.** (1) Motor carriers are hereby divided into four classes to be known as:

- (a) Class A motor carriers;
- (b) Class B motor carriers;
- (c) Class C motor carriers;
- (d) Class D motor carriers.

(2) Class A motor carriers shall embrace all motor carriers operating between fixed termini or over a regular route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

(3) Class B motor carriers shall embrace all motor carriers operating under regular rates or charges based upon either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a regular route.

(4) Class C motor carriers shall embrace all motor carriers operating motor vehicles for distributing, delivering, or collecting wares, merchandise, or commodities or transporting persons, where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement, or undertaking.

(5) Class D motor carriers embraces all motor carriers operating motor vehicles transporting (including pickup and disposal) ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter, and recyclables."

**Section 4.** Section 69-12-406, MCA, is amended to read:

**"69-12-406. Restriction on transportation of certain waste.** Except as provided in 69-12-324, no Class A, B, or C carrier will be authorized or permitted to transport ashes, trash, waste, refuse, rubbish, garbage, or organic and inorganic matter within the state. This restriction does not apply to recyclables."

Opponent's Testimony:

None.

Questions From Committee Members:

None.

Closing by Sponsor:

REPRESENTATIVE GILBERT closed the hearing on HB 236.

EXECUTIVE ACTION ON HOUSE BILL 236

Motion:

SENATOR STIMATZ MOVED that HB 236 BE CONCURRED IN.

Discussion:

SENATOR FARRELL will carry HB 236.

Recommendation and Vote:

MOTION PASSED UNANIMOUSLY that HB 236 BE CONCURRED IN..

HEARING ON HOUSE BILL 263

Presentation and Opening Statement by Sponsor:

CHAIRMAN WEEDING opened the hearing on HB 263.

Proponents' Testimony:

NADINE OBERG, representing the Montana Solid Waste Contractors, testified in support of HB 263. (SEE EXHIBITS 1 & 2)

VESTER WILSON, Bitterroot Disposal, stated he has served Ravalli County for fifteen years. Bitterroot Disposal does haul recyclables separate from the solid waste materials.

Opponents' Testimony:

None.

Questions From Committee Members:

None.

Closing by Sponsor:

CHAIRMAN WEEDING closed the hearing on HB 263

HEARING ON HOUSE BILL 309Presentation and Opening Statement by Sponsor:

DAVE BROWN, District#72, distributed a copy of a letter along with other information he received from Chuck Wells, Idaho Dept. Parks and Recreation. (SEE EXHIBIT 3) He stated that originally the bill set aside one half of one percent of money deposited in the Off Highway Vehicle Account for a State Special Revenue Fund to set up an Off Highway Vehicle Program. This is very similar to what is currently set up for snowmobilers. The House Committee however, changed it to one eighth of one percent. This legislation will allow Montana to get into a position where it can work with the BLM and the Forest Service to set up similar programs.

Proponents' Testimony:

JANET ELLIS, MT Audubon Legislative Fund, referred to page 4, lines 12 through 15, she stated they had it added into the bill in the House. There are areas that get damaged and need to be repaired and off highway vehicles are documented as causing soil erosion.

LINDA ELLISON, representing the Montana Trail Vehicle Riders Association, testified in support of HB 309. (SEE EXHIBIT 4)

DAL SMILIE testified in support of HB 309. (SEE EXHIBIT 5)

Opponents' Testimony:

JIM MANION, representing AAA of Montana and the Montana Highway User Federation, testified in opposition of HB 309. This bill will be diverting money from the highway trust account to non-highway use. It may seem that \$110,000 is not much, but this is money to match federal highway programs which could be a loss of up to \$400,000 in matching funds. He stated that their concern is that if these proposals change the method of states obtaining highway funding go through, Montana will be one of the ones who will suffer considerably. The Highway Users Fund is always opposed to taking highway trust funds to fund a small group of interests.

STEVE TURKIEWICZ, representing the Montana Auto Dealers Association and the Highway Users Federation, stated they oppose HB 309 for the same reasons Mr. Manion gave.



## Testimony - HB 263

For the record, my name is Nadine Oberg, and I represent the Montana Solid Waste Contractors, a state-wide association of private industry engaged in collection and disposal of solid waste in Montana.

It has long been public policy in Montana to regulate transportation for hire. HB 263 will include the pick-up and hauling of recyclable materials within Montana's already established regulatory framework. In addition, the bill will clarify exactly who can haul recyclables. It will not affect groups or individuals who are collecting reusable materials for cash, such as civic or charitable groups or the little kid from down the block.

The bill provides that two presently existing PSC authorities, Class C and Class D, will be able to haul recyclables for hire. Neither of these two carriers are rate-regulated. Class C carriers, who haul people or merchandise by contract, will need to apply for hauling authority for recyclables. For Class D carriers--garbage haulers--transportation of recyclable materials will be included within their already granted hauling authority.

By putting this bill in place, Montana will be taking important steps forward in meeting the needs of the future. The growing demand by the public for recycled products can best be met by establishing an adequate system to collect recyclables in the first place. We look forward to doing our part by sharing in the planning and preparation that will be needed, and urge your support of HB 263.

MONTANA SOLID WASTE CONTRACTORS, INC.

# Recycling in the States

Update 1989

The rush to recycle continued in 1989 as 38 states and the District of Columbia enacted more than 120 recycling laws through September; yet only two mandates for materials collection were passed. State laws also attacked plastics and such problem wastes as tires, used oil, and batteries with combinations of incentives, bans, and trade-in requirements.

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National Solid Wastes Management Association  
1730 Rhode Island Avenue, NW  
Suite 1000  
Washington, DC 20036  
(202) 659-4613

**NSWMA**

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 14 day of March, 1991.

Name: A. Nadine Oberg

Address: 36 S. Last Chance Gulch, Ste A.  
Helena, MT 59601

Telephone Number: 443-1160

Representing whom?

Montana Solid Waste Contractors

Appearing on which proposal?

HB 263

Do you: Support? ☒

Amend? ☐

Oppose? ☐

Comments:

See Written Statement.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Amendments, Discussion, and Votes:

SENATOR NOBLE MOVED TO AMEND HB 59 on page 2, line 12 back to \$3 and page 2, line 13 back to \$10 along with correction to the title. (SEE EXHIBIT 6)

REPRESENTATIVE HARRINGTON indicated that SENATOR LYNCH would carry HB 59.

Recommendation and Vote:

MOTION PASSED UNANIMOUSLY that HB 59 BE CONCURRED IN AS AMENDED.

EXECUTIVE ACTION ON HOUSE BILL 263

Motion:

SENATOR NOBLE MOVED that HB 263 BE CONCURRED IN.

Discussion:

SENATOR WEEDING will carry HB 263.

Recommendation and Vote:

MOTION PASSED UNANIMOUSLY.

EXECUTIVE ACTION ON HOUSE BILL 309

Motion:

SENATOR REA MOVED that HB 309 BE CONCURRED IN.

Discussion:

The Committee requested that a new fiscal note be made up to reflect the reduction and that the bill not be read on the rostrum until it has the new fiscal note.

SENATOR NOBLE will carry HB 309.

Recommendation and Vote:

MOTION PASSED UNANIMOUSLY.